



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

TEAMSTERS LOCAL 633

Complainant

v.

TOWN OF CONWAY

Respondent

CASE NO. M-0654:1

DECISION NO. 93-11

APPEARANCES

Representing Teamsters Local 633:

Thomas D. Noonan, Business Agent

Representing Town of Conway:

Robert Tawney, Chief Negotiator

Also appearing:

Raymond E. Levitt, Jr., Conway Selectmen
Jim Somerville, Town of Conway
Dale Frizzell, Town of Conway
Steve Burns, Town of Conway

BACKGROUND

Teamsters Local 633 of New Hampshire (Union) filed unfair labor practice (ULP) charges on August 5, 1992, against the Town of Conway (Town) alleging violations of RSA 273-A:5 I (e), refusing to bargain in good faith by violating ground rules. The Town filed its answer on August 21, 1992 after which this matter was heard by the PELRB on October 29, 1992.

FINDINGS OF FACT

1. The Town of Conway is a "public employer" as defined by RSA 273-A:I X.
2. Teamsters Local 633 is the duly certified bargaining agent for certain employees of the Town.

3. On May 28, 1992, the Town and the Union agreed to "Ground Rules for Negotiations." Those ground rules contained provisions that "Negotiations shall be conducted in private" and "Neither party shall make any disclosure, oral or written, including press releases or interviews, of the substance of any negotiations to any news media or to the general public without prior mutual agreement." These rules also provided that "non-economic matters will be addressed first and once agreement is reached on them, economic matters will be considered in negotiations."
4. Unrebutted testimony of both the Town Planner and the Chairman of the Board of Selectmen acknowledged that bargaining on non-cost items had not concluded by July 28, 1992.
5. On July 28, 1992, the Town Manager called a meeting of both organized (unionized) and un-organized town employees. Attendance at this meeting was restricted to employees; it was not open to the general public or the press. Attendance was not mandated by the public employer. Union representatives (i.e., Teamsters officials) were not advised of or invited to this meeting. This meeting occurred after the Town Manager discussed his proposals (Findings No. 7 and 8) with Selectmen.
6. At the July 28, 1992 meeting, the Town Manager explained his six (6) page report of the same date which made suggestions as to how the administrative arm of the Town might comply with the mandate of a special town meeting to cut the benefits line of the town budget by fifty (50%) percent, i.e., a 50% reduction in the Town's expenditures for health care benefits. Portions of the foregoing report indicated the Town Manager's suggestions for reductions and layoffs should the employees in this and other bargaining units not agree to a plan to cut the Town's costs for their health care benefits by fifty (50%) percent.
7. Bargaining unit employees testified that they were "intimidated" by this meeting of employees and the ultimatum of accepting benefit reductions or having their jobs impacted by increased workloads (Town Planner, Building Inspector), temporary layoffs (Recreation Assistant, Clerk) or total job elimination (Administrative Assistant, Assessor).

8. The Town Manager discussed his six page proposal relating to reduced insurance benefits costs with the Selectmen in an open meeting which the press attended. The Town Manager denied approaching the press directly. He was quoted in the July 29, 1992 edition of "The Conway Daily Sun," one day after the meeting with employees; however, there was no indication that the source of these quoted comments was in violation of the ground rules agreement.
9. There is no evidence that the Town Manager's meeting with employees on July 28, 1992 was intended to be a negotiations meeting since both unionized and non-unionized employees were in attendance.

DECISION AND ORDER

Violations of negotiating ground rules, when they occur, are unfair labor practices under RSA 273-A:5 since they exhibit a refusal to bargain in good faith. Such is not the case in these proceedings. The Union has not carried its burden of convincing this Board that the meeting of July 28, 1992 was a negotiations session. If it was not a negotiations session, then there are no ground rules to apply or to be violated. If it had been a negotiations session, which we do not believe to be the case, there still would have been no violation of the ground rules since there is no evidence that the Town Manager was quoted from his meeting with employees. To the contrary, it appears that his comments were derived from his public meeting with the Selectmen. Finally, this case does not rise to the level of an attempt to deal directly with bargaining unit members by circumventing the bargaining agent. There is no evidence that the Town Manager was attempting to encourage organized employees to waive statutory rights, to make on-the-spot decisions, or to proceed without having an opportunity to caucus or consult with union advocates or representatives. The Town Manager proposed a "window of time" until October 1, 1992 for both union and non-union employees to respond. This did not deprive unit members of consultation rights.

Under these circumstances, we find no violation of RSA 273-A:5 I (e) and the ULP must be DISMISSED.

So ordered.

Signed this 11th day of February, 1993.


EDWARD J. HASELTINE, Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding.
Members Seymour Osman and E. Vincent Hall present and voting.